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Committee on the Rights of the Child

Consideration of reports submitted by States parties under article 12 (1) of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography

Reports of States parties due in 2005

South Africa*

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Abbreviations and acronyms

CBRTA	Cross-Border Road Transport Agency
CCPF	Child Care and Protection Forum
CLPA	Child Labour Programme of Action for South Africa
CPR	Child Protection Register
CRC	United Nations Convention on the Rights of the Child
CTIA	Cape Town International Airport
CUBAC	Children being used by adults to commit crime
CYCC	Child and Youth Care Centres
DCS	Department of Correctional Services
DHA	Department of Home Affairs
DL	Department of Labour
DOH	Department of Health
DOJCD	Department of Justice and Constitutional Development
DPCI	Directorate for Priority Crime Investigation
DPP	Director of Public Prosecutions
DSD	Development Social Development
DWCPD	Department of Women, Children and People with Disabilities
FCS	Family Violence, Child Protection and Sexual Offences Units
FPB	Films and Publications Board
GCIS	Government Communication and Information Systems.
HSRC	Human Science Research Council
ICCMA	International Cooperation in Criminal Matters Act
ICMS	Integrated Case Management System
ICT	Information Communication Technology
ILO	International Labour Organization
INHOPE	International Hotline Operators
IOM	International Organization for Migration
ISS	International Social Services
ISTTHT I	Inter-Sectoral Task Team on Human Trafficking
KSIA	King Shaka International Airport
M&E	Monitoring and Evaluation
MEC	Member of the Executive Council
NAP	National Action Plan

NGO	Non-Governmental Organisation
NPA	National Prosecution Authority
ORTIA	OR Tambo International Airport
PEIA	Port Elizabeth International Airport
RRO	Refugee Reception Officer
RSDO	Refugee Status Determination Officer
SAHRC	South African Human Rights Commission
SALRC	South African Law Reform Commission
SAPS	South African Police Service
SARPCCO	Southern African Regional Police Cooperative Committee
SOCA	Sexual Offences and Community Affairs
TCCs	Thuthuzela Care Centres
UNICEF	United Nations Children's Fund
UNODC	United Nations Office on Drugs and Crime

Executive summary

South Africa ratified the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography in 2003. This report documents the measures it has taken between then and April 2013 towards realisation of its obligations thereunder.

The national strategy for the elimination and protection of children against sale, prostitution and pornography is rights-based and multi-pronged.

It is rights-based in that it is founded on the constitutional guarantee of the right to human dignity, the right to freedom, and the right to security of the person. These rights include the right not to be subjected to slavery, servitude or forced labour; the right of children to be protected from maltreatment, neglect, abuse or degradation; and the principle that the child's best interests are paramount in all matters affecting him or her.

The national strategy is multi-pronged in view of the imperative to respond to the multiple social, economic, cultural and other drivers of conduct prohibited by the Protocol; it is multi-pronged, too, given the diverse services and support that are necessary for protecting children against the risk of harm and providing remedial interventions to child victims.

The complexity of the problem and its solution means that many sectors and departments are responsible for providing services and support to child victims and their families. This diversity has resulted in a comprehensive, but fractured, framework of laws, policies and programmes. While individually they provide extensive protection, they do not always work in concert, thus undermining their efficiency as well as the coherence of systems for assessing both the numbers of affected children and the progress that is being made towards the realisation of the State's obligations under the Protocol.

The impact of this overarching challenge has been recognised and has received robust attention through: strengthened policies and laws; the development of holistic legal frameworks that synergise different elements of the situation; the development of structures tasked with coordination; and strengthened systems and processes for collecting and analysing data in order to monitor progress and guide evidence-based planning.

The present (and emerging) framework aims to realise the State's obligations through the following strategies:

The criminalisation and penalisation of prohibited conduct:

The governing laws criminalise the sale of children, child prostitution, and child pornography. The offences are widely defined to include a comprehensive spectrum of conduct, including attempted prohibited acts and benefiting from the proceeds of the outlawed conduct. In addition, severe minimum sentences have been imposed for sex offences and trafficking.

The prevention of the sale of children, child prostitution and child pornography:

A number of interventions target remediation of the underlying drivers of the prohibited conduct, including social and economic drivers, lack of knowledge and unethical services. Interventions include training and awareness-raising campaigns and the regulation of the qualifications of service providers as well as the terms on which services may be provided.

The duty to identify, report and provide services to child victims:

A wide range of role-players are duty-bound to identify child victims and provide an array of legal, social, therapeutic, medical, psychosocial and other forms of support to ensure their protection, best interests and right to participate in proceedings that impact on them. Services and support include the provision of legal representation to children in criminal and Children's Court proceedings, the use of child-friendly court procedures, the provision of information and guidance to children about processes, their placement into alternative care during investigations and court proceedings, and the provision of medical and psychological as well as social reintegration, family reunification and repatriation services.

The implementation of the relevant services and support is reinforced by a strong and co-operative relationship between the Government and civil society, which together face several challenges in the full realisation of their responsibilities. In addition to the challenges previously mentioned, common challenges include insufficient budgets and specialised human resources as well as gaps in the legal fabric and intra-governmental data management systems. These challenges are receiving ongoing attention within the national developmental agenda to eradicate the drivers of poverty and inequality, and within the broader context of strengthening the national child protection system.

Part 1: Introduction

1. South Africa ratified the United Nations Convention on the Rights of the Child (CRC) in 1995, and, on 30 June 2003, the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (hereinafter, the Protocol).

2. The Government of South Africa is pleased to present to the Committee on the Rights of the Child its initial report, in accordance with article 12, para. 1, of the Protocol.

3. The first report was due on 30 June 2005. The Department of Women, Children and People with Disabilities (DWCPD) was established in 2009 and commenced work towards this present report.

4. The purpose of the report is to outline the steps South Africa took between 2003 and April 2013 to meets its obligations under the Protocol.[1]

5. The report's content and structure are informed by the Articles of the Protocol and the Committee's reporting guidelines.

6. The preparation of this report included collating primary submissions from government departments on their progress in addressing the requirements of the Protocol. The relevant UN Guidelines were used to develop a data-collection template which was circulated to National Departments. Information was received from the Departments of Social Development (DSD), Labour (DL) and Justice and Constitutional Development (DOJCD) as well as the South African Police Service (SAPS), National Prosecuting Authority (NPA) and Film and Publication Board (FPB). A draft report was compiled and circulated departmentally for additional input, and further consultations were held with relevant stakeholders, including civil society. The report was also discussed in September 2012 at the National Children's Rights Machinery Meeting attended by the South African Human Rights Commission (SAHRC) and all relevant National Departments, Provincial Departments, Provincial Offices on the Rights of the Child, municipalities and civil society organisations. The draft report was refined and presented for approval to key departments and clusters.

7. South Africa has undergone an intensive period of law reform during the reporting period aimed at the protection of children and closer alignment of its laws with the CRC and the Protocol, and has made substantial progress in securing the rights of children in terms thereof.

8. General principles, which include non-discrimination, the best interests of the child, the right to life, survival and development, and respect for views of the child, are central to the development and implementation of all laws and processes that impact on children in South Africa, including those developed to meet obligations in terms of the Protocol. South Africa's interpretation and implementation of these principles are described in its combined Second, Third and Fourth Report to the Committee on the CRC which has been developed and submitted simultaneously with this report.

9. This report provides additional information on measures taken by the State towards further implementation of the CRC, in particular articles 1, 11, 21, 32, 34, 35 and 36.

[1] The statistical data provided in the report covers the period until June 2012, whereas the narrative includes legal and related developments (as well as input received through submissions on the draft report) that extend until April 2013.

10. This report should be read in conjunction with South Africa's combined Second, Third and Fourth Report to the Committee on the Rights of the Child in accordance with article 44 of the CRC.

Part 2: Data

2.1 Data collection systems

11. Given that the responsibility for implementation of obligations under the Protocol is spread across multiple departments, there are a number of relevant departmental data-collection systems. (a) The DSD's National Child Protection Register collects data at national and provincial levels on reported cases of child abuse, neglect and exploitation as well as all children found in need of care and protection by the Children's Court. (b) The DOJCD collects statistics on the numbers and outcomes of Children's Court cases heard annually, countrywide. (c) The SAPS records data about crime incidents reported, criminal cases opened, and convictions secured; it also keeps a record of everyone's previous convictions. In addition, the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (hereinafter referred to as the Sexual Offences Act) provides for a National Register for Sex Offenders. (d) The FPB monitors compliance with the Films and Publications Act, including aspects of the Act governing child pornography. Compliance Monitors visit distributors to conduct inspections, check the registration of distribution sites, and ensure that material is classified and displays age ratings and consumer advice. Furthermore, the FBP monitors child pornography through the classification process, in terms of which each distributor of any film, publication or game is required to submit the material to the FPB for viewing prior to distribution, which includes checking the content for child pornography. (e) Statistics South Africa conducts census surveys, victim surveys containing information of children and households per geographic area, and an Annual Survey of the Activities of Young People documenting the numbers of children involved, inter alia, in child labour.

12. These data-collection systems, however, are not integrated to create a national data or information system and in general do not yet provide (except for the FPB processes) disaggregated data in accordance with the categories of prohibited conduct and offences as contemplated by the Protocol. For example, while the DSD and DOJCD collect data about children in need of care and protection, the data are not disaggregated in terms of children needing care and protection as a result of commercial exploitation, sexual exploitation or trafficking. Furthermore, the DOJCD's current data-collection system collects information only on perpetrators and not the children involved. Likewise, the DSD's data on child abuse do not keep such disaggregated data. These gaps are receiving attention through the strengthening of systems, as described in more detail in paras. 13-14 below.

13. The current legislative framework dealing with trafficking in persons is split between the Sexual Offences Act and Children's Act. There is no comprehensive tool to connect the two pieces of legislation and consolidate the analysis of data collected in respect of the two laws and associated processes. However, the Prevention and Combating of Trafficking in Persons Bill, 2009 (hereinafter referred to as the Trafficking Bill) makes provision for the collection of data which will be disaggregated to include information on children. Once this Bill is passed into law, systems will be developed to collect data in a holistic manner. The currently fragmented nature of offences related to trafficking in persons creates difficulties in collecting data to determine the extent of the trafficking, sale or commercial exploitation of children; likewise, there has been no systemic collection of the number and outcomes of court cases dealing with these issues. To address this, the NPA, as part of the National Task Team dealing with the responsibilities as contained in the

Trafficking Bill, will assist in developing a more refined system for data collection and information collation that includes children as victims of trafficking.

14. A number of recent innovations seek to improve coordinated and systemic collection of data on the sale, trafficking, exploitation and prostitution of children. Key developments are reported hereunder.

(a) The DSD introduced a Reporting and Indicator Matrix on the implementation of the Children's Act. The Matrix is aligned to specific elements of the Act, including ones pertaining to the trafficking and exploitation of children. This has been operationalised only recently, and, as such, more data specific to the Protocol will be available in the next reporting period. A proposal is under consideration for the addition of an annexure to the Matrix to include children who are sold, victims of trafficking, sexually exploited, in forced labour and adopted using methods in contravention of article 21 of the CRC.

(b) The Child Justice Information Management Task Team was established to monitor implementation of the Child Justice Actto improve data-collection methods across departments. Statistics on children being used by adults to commit crime (CUBAC) will be captured as part of the Integrated Justice System. The monitoring and evaluation (M&E) system is currently in development.

(c) An Intersectoral Committee on the Prevention and Combating of Trafficking in Persons will be established in terms of the Trafficking Bill. It is mandated to establish an integrated information system to facilitate effective monitoring and implementation of the Act and to recommend interventions relating to trafficking based on its collation and analysis of information collected (section 38). Section 36 of the Bill provides that the Director-General of the DSD must submit to the Intersectoral Committee an annual report on all cases of abuse or deliberate neglect of a child as well as all findings by a Children's Court that a child is in need of care and protection because of abuse and neglect, insofar as those cases and findings relate to child victims of trafficking. In addition, section 34 requires the SAPS to provide an annual report on, amongst others, the countries from and to which people are being trafficked, the profiles of traffickers, the age, gender and nationality of victims, and other related information. Likewise, the Director-General of the DL and the National Director of Public Prosecutions must provide annual reports on any relevant information related to trafficking; the number of trafficking prosecutions and convictions; the sentences imposed; the number of victims of trafficking awarded compensation orders; and the number of cases where compensation was not awarded. The National Intersectoral Committee on Trafficking in Persons has developed a draft M&E Tool, pending the Bill's promulgation, that includes information on children disaggregated by gender and age. Whilst the Tool captures the perpetrator profile and indicates the number of cases for which perpetrators were prosecuted, it does not provide data captured in terms of types of offences committed against children or adults. An amendment is envisaged to address this.

2.2 Data

15. **Data on the sale of children:** No specific data on the sale or transfer of children for the purposes of sexual exploitation are presently available for the reasons specified above.

16. **The transfer of the organs of children for profit:** No specific data are available.

17. **The engagement of children in forced labour:** Whilst the Survey of the Activities of Young People (Statistics South Africa, 2010) found that 116,000 children appeared to be doing work prohibited by the Basic Conditions of Employment Act, compared to 93,000 in 2006, the survey does not indicate how many were involved in forced labour.

18. **Number of children adopted through intermediaries in contravention of article 21 of the CRC:** Whilst data are available on children adopted using methods compatible with article 21 of the CRC, no similar data are available in the case of children adopted through the efforts of intermediaries using methods incompatible with the prescribed standards.

Table 1
Number of child adoptions in South Africa per adoption-type and financial year

Types of adoption	*2003/04*	*2004/05*	*2005/06*	*2006/07*	*2007/08*	*2008/09*	*2009/10*
Local adoption	1,886	1,994	2,120	2,055	1,682	1,150	2,605
International adoption	308	232	203	260	231	218	293
Total	**2,194**	**2,226**	**2,323**	**2,315**	**1,913**	**1,368**	**2,898**

Source: National Department of Social Development, 2010.

19. **Any other form of sale of children, including any traditional practices that involve the transfer of a child:** No specific data are available. This data will be available in the next reporting period through the newly-established Reporting and Indicator Matrix on the implementation of the Children's Act.

20. **Data on children involved in child prostitution:** No specific data are available.

21. **Data on child pornography:** No specific data are available.

22. **Data on the number of prosecutions and convictions of the offences prohibited by the Protocol:** The number of charges brought in the period 2009/2011 in respect of relevant sexual offences against children in terms of the Criminal Law Amendment 2007 are reported hereunder.

(a) 45 cases of benefiting from child pornography;

(b) 19 cases of exposing or displaying or causing the exposure or display of pornography to a child (disturbing or harmful to or age-inappropriate for the children);

(c) 12 cases of exposing or displaying or causing the exposure or display of pornography to a child (rated publication or film);

(d) 61 cases of exposing or displaying or causing the exposure or display of genital organs or anus or female breast to children (flashing);

(e) 22 cases of exposing or displaying or causing the exposure or display of pornography to children;

(f) 1 case of promoting child sex tourism;

(g) 17 cases of sexual exploitation of children (engaging services);

(h) 5 cases of sexual exploitation of children (furthering); and

(i) 7 cases of sexual exploitation of children (offering services).

23. In 2009/2011, 46 cases resulted in successful prosecution and penalisation of the offender(s).

Part 3: General implementation measures

3.1 Laws and regulations adopted to give effect to the Protocol

24. Numerous legal developments furthered the realisation of the State's obligations in terms of the Protocol. Key initiatives are reported hereunder.

(a) The Children's Act was implemented on 1 April 2010. It provides for comprehensive protection of children against all forms of exploitation, including (a) the use of children in slavery, debt bondage, servitude and serfdom, and/or forced or compulsory labour; (b) the use, procurement or employment of children for the purposes of commercial sexual exploitation; the use, procurement, offer or employment of a child for trafficking; (c) the use of a child in the commission of an offence; and (d) the use, procurement, offer or employ of a child for child labour (section 141(1)).

(b) The Sexual Offences Act allows for the prosecution of perpetrators and the provision of protective and support services to victims of child trafficking, pornography and other sexual offences.

(c) The protection afforded by the Basic Conditions of Employment Act, 1997 which outlaws child labour, was strengthened to provide additional protection to children against hazardous working conditions.

(d) The Child Justice Act came into operation on 1 April 2010. It criminalises CUBAC and provides for child-friendly court processes.

(e) The most recent and holistic development is the Trafficking Bill (2009) which has been passed by the National Assembly and is before the National Council of Provinces. The objects of the Bill are to give effect to the State's international obligations in terms of, amongst others, the Protocol and to provide for the prevention and prosecution of trafficking, as well as the reporting, referral and provision of services specifically to child victims of trafficking.

25. The full body of laws and bills, including those described above, that govern, and are set to govern, implementation of the Protocol are summarised in the table below:

Table 2
Policies, laws, bills and codes of conduct ensuring implementation of the Protocol

Laws prohibiting sanctioning the sale and or trafficking of children	
Constitution of the Republic of South Africa	Guarantees the protection of all children, not just nationals, from maltreatment, neglect, abuse, degradation and exploitative labour practices, as well as their best interests.
Prevention of Organised Crime Act, 1998	The Act makes racketeering or organised crime activities in relation to, inter alia, kidnapping and sexual offences a crime.
Children's Act, 2005	Prohibits trafficking in and exploitation of children.
Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Sexual Offences Act)	The Act prohibits trafficking of people (including children) for sexual purposes (Part 6, section 70); section 71 makes trafficking in persons (including children) for sexual purposes an offence.
Criminal Law Sentencing Amendment Act 38 of 2007 (referred to as the Minimum Sentencing Act)	Section 51(1) of the Minimum Sentencing Act provides for life imprisonment for the offence of trafficking in persons for sexual purposes.

Laws prohibiting sanctioning the sale and or trafficking of children	
Prevention and Combating of Trafficking in Persons Bill, 2009	The Trafficking Bill deals holistically with trafficking in persons by including all offences in a single piece of legislation. It provides for the prosecution of offenders; prevention of trafficking in persons; protection and assistance to victims of trafficking; services to victims of trafficking; enforcement measures; coordinated implementation, application and administration of the Bill; and combating trafficking in persons in a coordinated manner.
Laws prohibiting the exploitation of child labour and CUBAC	
Constitution of the Republic of South Africa, 1996	Section 13 provides that no one may be subjected to slavery, servitude or forced labour.
Children's Act, 2005	The Act provides comprehensive protection to children against all forms of exploitation, including (a) the use of children in slavery, debt bondage, servitude and serfdom, and/or forced or compulsory labour, and (b) the use, procurement, offer or employ of a child for child labour (section 141(1)), as well as children used in the commission of crimes by adults.
Child Justice Act, 2007	The Act includes an offence of CUBAC (section 29).
National Policy Framework on Child Justice, 2010	It aims to provide assistance for victims of CUBAC by multiple agencies in terms of the Child Justice and Children's Act.
Child Labour Enforcement Policy	It has been aligned with the requirements of the Children's Act and Basic Conditions of Employment Act which pertain to the Protocol.
Basic Conditions of Employment Act, 1997	The Act prohibits the employment of children under 15 and regulates the employment of children older than that.
Basic Conditions of Employment Amendment Bill, 2010	The Bill seeks to strengthen the protection afforded against child labour by increasing the period of imprisonment in the case of conviction from three to six years.
Child Labour Programme of Action (CLPA), 2008–2012	The CLPA is the State's national multi-sectoral plan of action to prevent child labour. Led by the DL, it focuses on the delivery of support services such as poverty alleviation, information and awareness-raising, and the monitoring of responses to reported cases.
Farm Workers and Domestic Workers Sectoral Determinations	They prohibit employing children younger than 15 in these high-risk sectors and, in the case of farmworkers, provide that children between 15 and 18 may not work more than 35 hours per week, but ought to be paid the same rate as those working a 45-hour week.
Child Exploitation Strategy and Guidelines for the Prevention and Response to Child Exploitation	These documents guide practitioners combating child labour, child trafficking, the commercial sexual exploitation of children, and child pornography; guidance is based on best practice standards in accordance with international, regional and national legal frameworks.

Laws prohibiting sanctioning the sale and or trafficking of children

Laws criminalising the prostitution/commercial sexual exploitation of children	
Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007	The Act criminalises all acts of child prostitution (broadly defined) committed by adults and provides victims with care and protection. It specifically criminalises acts of child prostitution committed by adults; however, children involved in prostitution cannot be prosecuted and found guilty of being prostitutes or engaging in prostitution. The Act criminalises a wide range of conduct under the offence of sexual exploitation (section 17(1)). In addition to criminalising sexual exploitation by a perpetrator, the Act criminalises involvement in a child's sexual exploitation (section 17(2)). Section 17(3) criminalises the act of furthering a child's sexual exploitation and benefiting from the sexual exploitation of a child. Section 17(6) criminalises the promotion of child-sex tours by either a natural or a juristic person.
Children's Act, 2005	In addition to prohibiting trafficking for purposes of sexual exploitation of children, the Act prohibits the use, procurement or employment of children for commercial sexual exploitation (section 141(1)).
Laws prohibiting and sanctioning child pornography	
Films and Publications Act, 1996, as amended	The Act prohibits and sanctions all forms of child pornography.
Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007	Section 10 criminalises exposure, or display of child pornography, to adults; section 19 criminalises exposure, or display of pornography or child pornography to children irrespective of the method of display or distribution (section 19). The Act creates a further two offences to protect children from being used in pornography (section 20, subsections (1) and (2)).
Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism	A code has been signed between Fair Trade Tourism SA and the DSD governing conduct in the hotel industry, places of entertainment, tourism and related sectors to protect children from sexual exploitation.
Laws that sanction the commission, attempted commission, aiding, inducement and incitement to commit prohibited conduct	
Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007	Section 55 criminalises not only prohibited acts but attempted behaviour, conspiracy with any other person to commit the act in question, aiding or abetting, inducing, inciting, instigating, instructing, commanding, counselling or procuring another person to perpetrate conduct prohibited by the Act. Anyone convicted of these offences may be liable to the same punishment as a person actually committing that offence. Sections 71(2) (a), (b) and (c) criminalise committing acts of trafficking for sexual purposes as well as (a) ordering, commanding, organising or supervising trafficking; (b) causing, bringing about, encouraging, promoting,

Laws prohibiting sanctioning the sale and or trafficking of children

	contributing towards or participating in trafficking; and (c) the incitement, instigation, commanding, aiding, advising, recruitment, or encouragement of another person to commit the offence.
Children's Act, 2005	Section 284 (2) (b) criminalises attempted trafficking of children. It provides that it is no defence to a charge of trafficking that the intended exploitation or adoption of a child did not occur.
Laws that establish extra-territorial jurisdiction of the State in respect of relevant offences	
Children's Act, 2005	Section 291 extends the State's jurisdiction to prosecute cases of child trafficking committed by South African national natural or juristic persons outside the borders of the Republic of South Africa.
Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007	Section 71(6) makes it an offence for a commercial carrier to bring or take in or out of South Africa a person who does not have the necessary legal entry or exit documentation. Section 61 provides for extra-territorial jurisdiction in respect of any act constituting a crime in terms of the Act committed by a natural or juristic citizen or ordinary resident of South Africa outside the country's borders.
Laws authorising the forfeiture of assets acquired as a result of prohibited offences	
Prevention of Organised Crime Act, 1998	Chapter 5 makes provision for forfeiture of assets from a person convicted of an offence.
Laws protecting victims and service providers	
The Criminal Procedure Act, 1977	The Act provides for special measures to facilitate the giving of evidence by, and protection of, child witnesses.
Witness Protection Act, 1998	The Act protects threatened or intimidated witnesses who will testify against offenders.
Children's Act, 2005	The Act protects child complainants, witnesses and participants in all Children's Court proceedings by (a) requiring that proceedings remain closed; (b) limiting attendance; (c) and prohibiting publication of information that may reveal the identity of a child who is a party in, or a witness to proceedings.
Laws governing the identification, placement, referral and repatriation of victims	
Children's Act, 2005	Section 288 obliges certain professionals to report all victims of child trafficking to a social worker for investigation and support. Professionals include immigration and police officials, social workers and medical practitioners. (Section 54 of the Sexual Offences Act contains similar provisions.) Section 289 requires victims of trafficking to be referred to social workers and the Children's Court for an inquiry and decision as to whether the child is in need of care and protection, and as to their appropriate placement in alternative care.

Laws prohibiting sanctioning the sale and or trafficking of children	
Policies, laws and guidelines governing the provision of services to victims	
National Policy Guidelines for Victim Empowerment, 2009	These provide guidance to ensure integrated, coordinated victim-friendly services.
Service Charter for Victims of Crime and the Minimum Standards for Victims of Crime, 2004	The Charter consolidates the legal framework governing the rights and services for crime victims, and aims to ensure that the criminal justice system is victim-centred and does not cause secondary victimisation. It sets minimum standards of service.
Sexual Assault Policy and Management Guidelines, 2005	These policy and guidelines developed by the DOH aim to provide comprehensive care for victims of sexual assault.

3.2 Significant jurisprudence

26. In Director of Public Prosecutions, *Transvaal v. The Minister of Justice and Constitutional Development and Others (2009 (4) SA 222 (C)*, the Constitutional Court held that the rights of a child complainant in sexual offences cases are at risk where intermediaries and other protective facilities are unavailable, and obliged the DOJCD to address this appropriately.

27. In 2011, pursuant to the prosecution of a case in terms of section 71 of the Sexual Offences Act, a life-imprisonment sentence was handed down in the case of *the State v. Aldinah dos Santos* involving a Mozambican person-trafficker and Mozambican child victim.

28. Numerous other cases are described in the body of the report.

3.3. Agencies and mechanisms responsible for implementation and coordination

29. Multiple government departments are responsible for implementation of the laws enacted that give effect to the rights in the Protocol. These include the DOJCD, DSD, DL, DHA, DOH, SAPS, NPA, FPB and DWCPD.

30. The SAPS is responsible for investigating the relevant offences, further to which it has developed specialist Family Violence, Child Protection and Sexual Offences (FCS) Units. The Directorate for Priority Crime Investigation (DPCI) addresses priority crimes, one of which is human trafficking. A dedicated Human Trafficking Desk is sited in the Priority Crime Management Centre and responsible for coordinating all trafficking issues received from the provinces and other sources, advising the SAPS on matters related to trafficking, providing training to SAPS members, and monitoring how effectively trafficking is being addressed. In addition, an Organised Crime Unit encompasses counter-human trafficking.

31. The DOJCD administers justice, and as such, together with the NPA and Judiciary, is responsible for court processes relating to prosecution and sentencing of offenders in terms of the Protocol. It also provides appropriate court-based services and support to child victims as both complainants and witnesses, including the use of intermediaries and interpreter services, and the development of infrastructure, capacity and skills to ensure that the rights and best interests of child victims are protected throughout the criminal justice process. Specialised units have been established in the NPA to focus on prosecuting the relevant offences. The Sexual Offences and Community Affairs (SOCA) Unit was

established to develop strategies and oversee the operational implementation and management of sexual offences committed against women and children. This unit, based on its presidential proclamation and mandate, established five sectors to deal with sexual offences, domestic violence, child justice, maintenance (child support) and human trafficking in relation to women and children. The Asset Forfeiture Unit within the NPA focuses on cases to seize assets that are the proceeds of, or which were used in the commission of, offences. The Office for Witness Protection safeguards threatened or intimidated witnesses.

32. The DHA, DSD and DOH are responsible for prevention and early intervention services, support services, documentation, and reintegration and repatriation of victims of the relevant offences.

33. The FPB classifies films and publications and must report all cases of child pornography for investigation and prosecution; it is also responsible for the prevention of, and awareness-raising in respect of, child pornography. The FPB comes into contact with child pornography through applications for classification, referral for analysis from police, and industry monitoring and public complaints on the hotlines. Statistics in this regard are low: in the past three years fewer than 100 cases have been referred.

34. The DWCPD has been established with the mandate to promote, coordinate and monitor the realisation of children's rights by all governmental departments and agencies in accordance with the State's national and international obligations, including obligations in terms of the Protocol.

35. A number of structures and mechanisms have been established specifically to facilitate coordination among the role-players responsible for implementation of the laws specific to the Protocol.

36. Several laws and policies recognise and provide the legal and policy frameworks for the coordination of multi-sectoral interventions. These include the Sexual Offences Act, Children's Act, Child Justice Act and the Trafficking Bill. A number of the laws require the development of national policy frameworks to guide collaborative implementation of the roles and responsibilities assigned to different role-players. In addition, they establish coordinating structures to develop policy frameworks, facilitate collaboration, and oversee implementation.

37. The Intersectoral Committee for the Management of Sexual Offence Matters was established in terms of the Sexual Offences Act. Comprising representatives of the DOJCD, SAPS, DCS, DSD, DOH and NPA, it is tasked with developing, compiling, and monitoring progress against the National Policy Framework required by the Act to ensure a uniform and coordinated approach by all governmental departments and institutions dealing with matters relating to sexual offences and to enhance the delivery of services for victims of sexual offences.

38. The Child Labour Programme of Action (CLPA) Implementation Committee enjoys representation from government departments, organised business, organised labour and civil society. It is responsible for coordinating the CLPA, a multi-sectoral plan of action for the prevention, reduction and eventual elimination of child labour and exploitation.

39. An Intersectoral Child Justice Steering Committee, established in terms of the Child Justice Act, has developed a broader National Policy Framework to monitor progress in implementing the Act. The DOJCD chairs both the Directors-General Intersectoral Child Justice Steering Committee as well as the National Operational Child Justice Steering Committee; the Act and National Policy Framework is monitored by nine Provincial Child Justice Steering Committees. The Committees consist of the relevant national and

provincial departments as well as key non-governmental organisations (NGOs) working with children in conflict with the law.

40. A draft National Policy Framework on Trafficking in Persons to facilitate coordinated and victim-centred services is being developed by the Intersectoral Committee chaired by the DOJCD to prepare for the implementation of the eventual Trafficking in Persons Act.

41. The Child Care and Protection Forum (CCPF) was established in 2008 with the objective of promoting intersectoral collaboration in matters that concern the implementation of the Children's Act. It has developed a National Policy Framework, Implementation Plan and Indicator Matrix to facilitate coordinated quarterly reporting and monitoring of implementation of the relevant sections of the Act. It receives quarterly reports from relevant government departments and civil society.

42. The collaborative Tsireledzani initiative to combat human trafficking was launched in 2009. It includes the International Labour Organization (ILO), the International Organization for Migration (IOM), United Nations Children's Fund (UNICEF) and NGOs. The conference generated a National Action Plan (NAP) designed to facilitate coordination, collaboration and alignment of efforts.

43. The Inter-Sectoral Task Team on Human Trafficking (ISTTHT) was established in terms of the National Human Trafficking Strategy. It is made up of various government departments and NGOs and has been a lead-player in raising awareness across sectors on human trafficking. It led to the establishment of Provincial Task Teams to address cases of human trafficking collaboratively.

44. A broader Human Trafficking Consultative Forum, made up of 30 members from a range of governmental departments, international organisations and NGOs involved in the management of trafficking, has been established to keep abreast of developments and ensure coordination in the planning and implementation of relevant interventions.

45. The SAPS' dedicated DPCI has adopted an integrated and multi-disciplinary approach to addressing trafficking. It is part of the ISTTHT and has established its own Human Trafficking Forum. It works with the SAPS FCS Units in investigating child trafficking and child prostitution. The Human Trafficking Desk in SAPS' Priority Crime Management Centre is responsible for coordinating all trafficking issues received from the provinces and other sources.

46. National and Provincial Coordinators for Human Trafficking within the DPCI play a crucial role in ensuring the systemic handling of human trafficking matters at national and provincial levels. The coordinators form part of the Provincial Human Trafficking Task Teams tasked with working collectively to prioritise awareness campaigns, training and capacity-building as well as operations in high-risk areas and against high-risk threats.

47. In addition, the Trafficking Bill envisages an Intersectoral Committee on Prevention and Combating of Trafficking in Persons. Made up of, inter alia, the DOJCD, SAPS, DOH, DSD, DL, NPA and Government Communication and Information System (GICS), it will coordinate communication initiatives, monitor implementation and establish an information collection and management system.

3.4 The dissemination of the Protocol and training of role-players

48. Many of the policies, laws and programmes giving effect to the Protocol came into effect only in the last five years. The novelty of these interventions has necessitated a wide-ranging programme of training and capacity-building for the diversity of role-players who are responsible for implementation. These interventions, listed below, have served both to

guide implementers in fulfilling their responsibilities and to further disseminate information about the Protocol.

49. Various guidelines on fulfilling roles and responsibilities were developed to support implementers in understanding their obligations and how best to fulfil these. For example:

(a) The SAPS developed National Instruction 2/2010, which provides guidelines to the police on how to identify and lawfully deal with suspected CUBAC, as well as National Instruction 3/2010, which was developed in terms of the Children's Act to guide SAPS members on how to attend to a report of child trafficking and deal with the victim. SAPS National Instruction 3/2008, developed in terms of the Sexual Offences Act, provides guidance to SAPS members on how to deal with victims of sexual offences so as to ensure their protection. These guidelines are contained in SAPS' training modules on dealing with vulnerable children, which include additional information on CUBAC, commercial and sexual exploitation of children, and trafficking.

(b) The DSD developed Reception, Assessment and Referral Centre Guidelines for practitioners in 2008 to ensure that all children suspected of being in conflict with the law are assessed for CUBAC and trafficking, and that probation offices are accessible.

(c) The DSD developed Guidelines on the Prevention and Response to Child Exploitation, inclusive of Child Labour. These documents guide practitioners in the field of child labour, based on good practice standards in accordance with international, regional and national legal frameworks.

(d) Directives have been developed by the NPA in line with the Child Justice Act and the Sexual Offences Act and distributed to prosecutors.

50. Professionals across the value chain have received guidance and training on, inter alia, the relevant provision of the Children's Act, Child Justice Act and Sexual Offences Act dealing with trafficking, the commercial and sexual exploitation of children, and pornography. For example:

(a) 186 Children's Court presiding officers received training on their roles and responsibilities in terms of the Children's Act.

(b) Comprehensive training manuals were developed by SOCA for Child Justice, Sexual Offences (including modules on trafficking and child pornography), Domestic Violence and Maintenance (Child Support). The breakdown of training delivered for Child Justice and Sexual Offences is as follows. Thirty one training sessions were held on Child Justice from 2009 to March 2012 for 912 prosecutors. From 2008 until March 2012, 38 sessions were delivered on Sexual Offences for 993 prosecutors. With the IOM, SOCA developed a trafficking-in-persons training manual, and in 2011 until March 2012, 13 sessions were delivered, with 295 delegates attending them.

(c) In 2011/12, 7,000 SAPS members received training on the National Instructions referred to in para. 48(a) above, and 15,877 police officials participated in a one-day Child Justice Act and National Instructions information session. Between 2008 and 2012, 15,891 members received training through the SAPS's Vulnerable Children Learning Programme and Children and Youth at Risk course on the vulnerability of children to exploitation, child labour and CUBAC. In addition, since 2009, 2,518 SAPS members received training through the "First Responders Sexual Offences Learning Programme", which trains police officers on how to deal with child victims of sexual offences.

(d) Specialised role-players and units within SAPS have received focused training. For example, 2,151 sexual-offence investigators received training through the Sexual Offences Course for Investigating Officers, and 1,864 investigating officers in the FCS units received training through the FCS Learning Programme. FCS Unit members are

also trained in cybercrime. In addition, the DPCI provided training to Frontline Officers attached to the Ports of Entry, Border Policing, DPCI and General Detectives to enhance capacity to detect human trafficking in all its forms. The DPCI is developing Standing Operating Procedures for human-trafficking matters.

(e) The Gauteng DOJCD's Regional Office, together with the Provincial Human Trafficking Task Team, holds regular workshops with the agencies operating at OR Tambo Airport (ORTIA) (identified as a key point of entry for trafficking) on trafficking in persons. The workshops include information on identification of victims, responsibilities of carriers, and statutory reporting responsibilities.

(f) The DSD provided training on the Social Crime Prevention Strategy and on therapeutic programmes to 345 probation and social service practitioners as well as 205 master trainers.

(g) Between 2008 and 2010, labour inspectors received training from the IOM on child labour generally as well as specific training on trafficking and the child labour enforcement policy, which was updated to include reporting of children in need of care and protection. Child labour enforcement training is also included in all Sectoral Determination training.

(h) The FPB has run workshops to empower critical stakeholders on their roles and responsibilities in terms of the Films and Publications Act. In addition, it has trained prosecutors, SAPS officials, magistrates and judges on the prosecution and conviction of perpetrators of child pornography.

(i) Various multi-sectoral training modules have been developed and provided to a diversity of role- players. For example, the DSD provides continuous training on legislation, strategies and policies on child protection. Training on the Children's Act and Child Justice Act has been provided to all relevant professionals, including immigration and law enforcement officers, labour inspectors, judges, social workers, teachers and legislators. The Inter-Sectoral Child Justice Steering Committee has developed and implemented an inter-sectoral Training Manual for child justice and conducted training in all provinces during 2010/11 for members of the SAPS, the NPA, DSD, Legal Aid SA, magistrates and clerks of the Child Justice Courts. The NPA's SOCA Unit compiled an integrated training manual on sexual offences for all stakeholders at the Thuthuzela Care Centres, and since 2011 until March 2012, 20 sessions have been delivered and attended by 483 delegates.

3.5 Mechanisms to collect and evaluate data

51. Please refer to the earlier discussion in Part 2 of the report.

3.6 Budgets allocated to implementation of the Protocol

52. The activities related to implementation of the Protocol are carried out by numerous departments whose budgets are neither activity-based nor specifically aligned with the Protocol obligations and descriptions. The multiplicity of departments, as well as the lack of alignment between departmental budgets and the Protocol, makes it difficult to track expenditure as required by the Guidelines.

53. Whilst it is not possible to provide accurate budgetary figures in respect of the relevant activities, what is clear, from a comparative analysis of the budgets of the different responsible departments, is a growth in the commitment to realise the State's obligations.

54. The budgets allocated to the departments that carry the bulk of the implementation burden increased from R6.1-billion in 2008/09 to R21.3-billion in 2014/15 at an annual average rate of 23% (see Table 3).

Table 3
Budget allocations to services to children, by financial year

Department (R'000)	*2008/09*	*2009/10*	*2010/11*	*2011/12*	*2012/13*	*2013/14*	*2014/15*
South African Police Services	29,308	22,480	19,703	33,466	34,303	35,332	36,039
Department of Social Development	84,403	94,381	103,948	115,504	124,554	134,507	144,434
Department of International Relations and Cooperation	211	220	230	230	230	230	244
Department of Women, Children and People with Disabilities	4,563	7,742	8,735	10,179	13,525	15,994	17,139
Department of Justice and Constitutional Development	17,000	17,000	86,001	196,686	339,737	370,217	385,155
Department of Basic Education	5,927,009	7,411,107	8,211,091	13,098,009	15,771,181	19,764,735	20,722,089
Total	**6,062,494**	**7,552,930**	**8,429,708**	**13,454,074**	**16,283,530**	**20,321,015**	**21,305,100**

Source: National Treasury, 2012.

3.7 Strategy for the elimination of offences and protection of victims

55. South Africa's strategy for eliminating the sale of children, child prostitution and child pornography and for protecting victims of trafficking is rights-based and multi-pronged. It is founded on the constitutional guarantee of the right to human dignity, the right to freedom and security of the person (which includes the right not to be subjected to slavery, servitude or forced labour), and children's right to be protected from maltreatment, neglect, abuse or degradation.

56. Given the diversity of underlying social and economic drivers of the sale of children, child prostitution and child pornography (including poverty, harmful traditional practices, disrupted families, rural vulnerability, and migration) and the range of conduct and offences that make up the broader prohibited acts, the interventions fall within a wide array of policies, laws and programmes and an equally wide array of departmental competencies.

57. Collectively these interventions aim to eliminate prohibited conduct and provide protection through a combination of strategies, including: (1) the criminalisation and penalisation of conduct, as well as attempted conduct, that places children at risk or exposes them to exploitation and/or trafficking, prostitution or pornography; (2) the prevention of the conduct by addressing the underlying social and economic causes and risk-factors driving the sale of children, child prostitution and child pornography; (3) the creation of an obligation on officials who come into contact with children, and the provision of guidance to them, to identify, report and refer children at risk to officials for prosecution of the offenders and access to support services for the children concerned; (4) the provision of statutory alternative care, medical, and psychosocial support and services for children in need of care and protection as a result of the prohibited conduct; and (5) the provision of services for the safe reintegration and repatriation of child victims.

58. Policies, laws and strategies include the following:

(a) The legal instruments listed in Table 1 of Part 3 and discussed in more detail hereunder criminalise various relevant offences.

(b) The National Policy Framework on the Management of Sexual Offences (2012), which has been developed to guide the intersectoral implementation of the Sexual Offences Act, also relates to cases of sexual offences involving child victims.

(c) The DSD's Anti-Child Exploitation Strategy and accompanying Guidelines on the Prevention and Response to Child Exploitation focus on the prevention and protection of children against trafficking, child labour, child pornography and commercial sexual exploitation. In addition, the Department has a range of broader preventative strategies that aim to address the underlying drivers and causes of all forms of abuse, neglect and exploitation. These include the Strategic Plan for the Prevention and Management of Child Abuse, Neglect and Exploitation; the Children's Act and the accompanying National Policy Framework, which seek to secure prevention and early intervention services for all children; the prohibition, in terms of the Children's Act and Sexual Offences Act, upon adults convicted of child abuse or exploitation from working with children; and the Social Crime Prevention Strategy and Green Paper on Families: Promoting Family Life and Strengthening Families in South Africa, which seek to build the resilience of families, communities and children to prevent the commission of crimes against children.

(d) The Child Justice Act, the SAPS National Instructions 2/2010 in terms of the Child Justice Act and accompanying National Policy Framework (2010), create, and protect children against, the offence of the use of a child by an adult in the commission of a crime (CUBAC). These measures require the assessment of all children suspected of breaking the law to determine if they have been victims of CUBAC; they also provide guidance on how to deal with complaints of children suspected of being used by adults to commit crimes, and on the provision of assistance to such victims by multiple agencies. The major challenge regarding CUBAC relates to the identification of these matters. More often than not, children either shoulder all the blame for fear of reprisal or they opt to remain silent for a variety of reasons.

(e) The Children's Act and accompanying Guidelines on the Notification of Child Abuse Cases, the Sexual Offences Act and Films and Publications Act oblige certain officials (such as health care professionals, members of the FPB, immigration officials, educators and others) to report cases of suspected trafficking, abuse, exploitation and child pornography to either a social worker or the police for further investigation, prosecution and the provision of relevant support services.

(f) The SAPS has developed and implemented official directives relating to the protection of children in general and specifically to their protection from commercial sexual exploitation and abuse. These directives provide comprehensive instructions to police officials on their obligations under the relevant legislation, and include the National Instruction on Sexual Offences 3/2008; the National Instructions on Children in Conflict with the Law 2/2010; and the National Instructions for Children in Need of Care and Protection 3/2010. A police official may, where necessary, and without a warrant, enter any premises if he or she believes that the safety of a child is at risk or that the child may be moved from those premises, and may use such force as is necessary to enter the premises. A police official must secure the safety and well-being of that child and transfer him or her to a designated child protection organisation or the provincial DSD. The latter must without delay assess whether the child is a victim of trafficking. Under the Children's Act, a child found a victim of trafficking must be referred to a social worker for further investigation and placed in temporary safe care.

(g) The NPA has developed directives aligned with the Child Justice Act and Sexual Offences Act to assist prosecutors. These were included in the training curricula mentioned above.

(h) The exploitation of children (which includes forced marriages, slavery, servitude, trade in children's body parts and forced as well as other forms of child labour) is prohibited by the Children's Act and Basic Conditions of Employment Act. The Child Labour Enforcement Policy has been aligned with the requirements of the Children's Act, and the protection afforded children against forced or harmful labour practices was strengthened by the Farm Workers and Domestic Workers Sectoral Determinations, which provide special protection against the exploitation of child farm and domestic workers. The Child Labour Programme of Action (CLPA) 2008–2012 is a multi-sectoral plan of action under the leadership of the DL which focuses on the delivery of a range of support services to prevent child labour, such as poverty alleviation, information and awareness-raising and the monitoring of the efficacy of responses to reported cases.

(i) A Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism protects children from sexual exploitation in the hotel industry, places of entertainment, tourism and related sectors.

(j) Various strategies and guidelines have been developed governing the provision of services and support to child victims to protect them from further harm. The National Policy Guidelines for Victim Empowerment (2009) provide guidance to ensure integrated, coordinated victim-friendly services to abused children, victims of sexual abuse and rape and victims of trafficking. The Service Charter for Victims of Crime and the Minimum Standards for Victims of Crime (2004) consolidate the legal framework governing the rights and services for victims of crime. They aim to ensure that the criminal justice system does not cause secondary victimisation, and make provision for minimum standards for services provided through the criminal justice system. All victims, including victims of trafficking, sexual and commercial exploitation, are entitled: to be treated with fairness and with respect for their dignity and privacy; to receive and offer information through participation in proceedings; to protection and assistance; and to compensation and restitution.

(k) Multi-disciplinary Thuthuzela Care Centres (TCCs) have been established to centralise the provision at one centre of a holistic suite of medical, psychological and other services for victims of sexual assault. The focus of the TCC model is to provide a victim-centred and court-directed approach with prosecutor-guided investigations and stakeholder cooperation. The objectives are to minimise secondary victimisation, reduce cycle time from reporting to finalisation of the case, and increase conviction rates. At present there are 51 TCC sites.

(l) In addition, victim-friendly rooms have been established at police stations in an effort to ensure that child victims can furnish their statements in a safe and private environment. By the end of 2010, there were 900 victim-friendly facilities throughout the country.

(m) The DOH's Sexual Assault Policy and Management Guidelines (2005) make provision for specialised and accessible 24-hour health services for all victims of sexual assault.

(n) In addition to the prevention and early intervention services provided by the DSD, the Children's Act and accompanying National Policy Framework and guidelines provide statutory services for children in need of care and protection, including those who are at risk because of exploitation and trafficking. These services include the provision of alternative placement, psychological and therapeutic programmes, as well as reintegration and repatriation services.

(o) Sections 150 and 289 of the Children's Act require the referral of victims of child labour, exploitation and trafficking to social workers, who must conduct an inquiry and bring the child before a Children's Court for a decision as to whether the child is in

need of care and protection. The child may, pending the inquiry, be placed in temporary safe care. In terms of section 289(2), where an illegal foreign child victim is brought before the Children's Court the court may order that the child be assisted in applying for asylum in terms of the Refugees Act No. 130 of 1998. Where the court finds that the child victim is in need of care and protection, it must make an appropriate order for the alternative placement of the child, and in the case of a child that has been trafficked, such an order authorises the child to remain in the Republic for the duration of the Children's Court order.

(p) In terms of the Children's Act, provincial Members of the Executive Council (MECs) must provide a sufficient and appropriate spread of child and youth care services for the alternative residential care of children outside the family environment. In addition, such facilities must provide therapeutic programmes for, amongst others, the reception and temporary safe care of children to protect them from abuse or neglect, and the reception and temporary safe care of trafficked or commercially sexually exploited children.

(q) Section 290 of the Children's Act provides that an illegal foreign child victim of trafficking may not be returned to his or her country of origin without giving due consideration to the availability of care arrangements in the country to which the child is to be returned, the safety of the child in the country to which he or she is to be returned, and the possibility that the child may be harmed, killed or trafficked again. If it is in the best interests of the child, the Director-General of the DSD must authorise that the child be accompanied by an adult on his or her return to the country of origin.

(r) In addition, the DSD's Foster Care Strategy; Alternative Care Strategy; Norms, Standards and Practice Guidelines for the Children's Act; draft Guidelines for Family Reunification Services; Strategy and Guidelines on Children Living and Working on the Streets; Minimum Norms and Standards for Secure Care Facilities; Integrated Plan for Services to Families; and Framework on Positive Values for Families and Communities, all combine to provide for support and services for children at risk, and/or victims, of trafficking, prostitution and child pornography.

59. Whilst there are numerous interventions to eliminate the sale of children, child pornography and child prostitution, South Africa has recognised that their efficacy has been undermined by the lack of a consolidated national strategy for the elimination and protection of people, including children, against trafficking.

60. In 2006 the South African Law Reform Commission (SALRC) reviewed the framework for addressing human trafficking, sale and exploitation of children and adults. It concluded that the piecemeal approach has left several gaps within the current framework, including the lack of an effective and targeted prevention strategy; the lack of effective coordination of interventions across the full sectoral spectrum and range of Protocol offences; the lack of an effective and targeted identification and referral system; the lack of coordinated and targeted services and support for child victims of trafficking, exploitation, and pornography; lack of adequate penalties and compensatory provisions; and lack of coordinated monitoring and information systems. It recommended the development of a comprehensive law to create a strategic enabling framework for coordinated and effective prevention, prosecution and service-provision regarding the relevant issues, such law being aligned with international obligations, including those under the Protocol.

61. The SALRC's recommendation has been promoted through the development of the Trafficking Bill, which creates the specific offence of trafficking in persons. Trafficking is defined widely to encompass the full range of offences contemplated by the Protocol, and includes "the recruitment, sale, supply, procurement, transportation, transfer, harbouring, disposal or receipt of persons or the adoption of a child facilitated or secured through legal or illegal means within or across the borders of the Republic (a) by means of the use of threat, force, intimidation or other forms of coercion, abduction, kidnapping, fraud,

deception, debt bondage, abuse of power or the giving or receiving of payments or benefits to achieve the consent of a person having control or authority over another person, or (b) by abusing vulnerability for the purpose of exploitation".

62. Exploitation is, in turn, defined as (but not limited to) all forms of slavery, forced marriage, sexual exploitation, servitude, forced labour, child labour as defined in section 1 of the Children's Act, the removal of body parts, and the impregnation of a female person against her will for the purpose of selling her child when the child is born. Sexual exploitation means a sexual offence in terms of the Sexual Offences Act or any offence of a sexual nature against a victim of trafficking in any other law.

63. The Bill provides a comprehensive multi-sectoral and multi-pillared strategic framework for the prevention of trafficking in persons; offences and penalties; extra-territorial jurisdiction; the identification, reporting and referral specifically of child victims; placement of child victims; the provision of health care services; the prohibition of criminal prosecution of a victim of trafficking; repatriation of child victims; the provision of other services to trafficking victims; and accreditation of, and minimum norms and standards for, accredited service providers, as well as the content of the programmes offered to trafficking victims.

3.8 Civil society's efforts to eliminate child prostitution and pornography

64. Civil society has played a key role in researching the prevalence and underlying causes of the sale of children, child prostitution and child pornography in South Africa. Of particular note is the role played by NGOs such as Molo Songololo and Childline South Africa at the beginning of the millennium when little monitoring took place in South Africa. Their advocacy has been central in shaping the emerging dialogue, legislation, strategies and programmes.

65. Civil society organisations have participated in the national structures and mechanisms established to coordinate and shape laws and interventions to combat child exploitation and trafficking. This participation is set to continue in the Intersectoral Committee on Prevention and Combating of Trafficking in Persons with a view to fostering co-operation between government and civil society in the implementation of the Act.

66. In addition, NGOs in South Africa provide many of the residential and therapeutic programmes and services provided for by laws such as the Children's Act.

3.9 The role of the statutory ombudsperson and other independent institutions

67. Although South Africa does not have a statutory ombudsperson for children, the SAHRC serves a comparable oversight and remedial role. Its mandate to promote human rights, together with its powers to investigate and report on the observance of rights, to secure redress where rights have been violated, and to conduct research and educate persons on human rights, have defined the manner in which it carries out its mandate. Its designated commissioner responsible for children's rights monitors the implementation of national and international child rights obligations.

Part 4: Prevention

4.1 Measures to prevent offences

68. Numerous measures have been adopted to prevent specific prohibited offences. These interventions fall into one of four categories: those aiming to (a) address the underlying social and economic drivers of the offences in question; (b) prevent exposure of children to the risks in question; (c) raise awareness of the risks and dangers; and (d) make provision for services to protect especially vulnerable groups of children.

69. Measures to address the underlying drivers of the offences include those described in Part 3.

70. Measures to prevent exposure of children to the risks in question include the following:

(a) The Children's Act and Sexual Offences Act require, respectively, that National Child Protection and Sex Offender Registers be kept. The Children's Act requires the DSD to keep a register (a) of all cases of abuse or deliberate neglect of specific children, to use the information to protect these children from further abuse or neglect, to use it to determine patterns of abuse or deliberate neglect, and to plan and budget for activities to ensure the protection of children; and (b) of all persons who are unsuitable to work with children, and to use the information in the register to protect children in general against abuse from these persons. People unsuitable to work with children include any person convicted of murder, attempted murder, rape or indecent assault. The Sexual Offences Act requires that the details of all persons who have been convicted of a sexual offence against a child or a person who is mentally disabled, or who are alleged to have committed such an offence but were not convicted by virtue of having being declared a State Patient (in other words, found to be mentally ill), be recorded in the National Register for Sex Offenders with the objective of protecting children and people who are mentally disabled against such sex offenders.

(b) Both the Children's Act and Sexual Offences Act prohibit the employment or use of any person recorded in the registers in any institution or facility that provides services to children, including a child and youth care centre, a drop-in centre, a cluster foster-care scheme, a school, club or association providing services to children, or an enterprise providing entertainment or games for children. No such person may be an adoptive or foster parent, work in any unit of the SAPS tasked with child protection or work at a municipal level in any capacity involving children. Moreover, both Acts oblige all employers to check if any existing or prospective employees' names are recorded in the registers.

(c) The FPB has established a hotline and a toll-free number to enable members of the public to anonymously report illegal websites containing images of child sexual exploitation and child pornography. The FPB's membership of the International Association of Hotline Operators creates the opportunity to share information of illegal websites that contain images of child sexual exploitation with other member countries, with the objective of ensuring that these websites are investigated by the host country and shut down.

(d) The Department of Correctional Services (DCS) is considering profiling offenders who commit crimes against children and developing rehabilitation programmes for such offenders.

4.2 Prevention awareness-raising measures

71. Measures to raise awareness of the risks and dangers of the prescribed offences include ongoing information and awareness-raising campaigns about children's general rights to protection against abuse, neglect and exploitation using diverse media (including web-based media, pamphlets and other publications, and radio and television) as well as schools- and community-based outreach initiatives.

72. Campaigns to raise awareness of the risks and harmful consequences of the prohibited offences include the following:

(a) The SAPS provides annual awareness-raising programmes during Child Protection Week, Youth Month, Women's Month, and the 16 Days of No Violence against Women and Children campaign.

(b) The DL engages in public awareness-raising on child labour at a national and provincial level. It uses the annual National Day against Child Labour to highlight the problem of child labour and the Department's commitment to the eradication of the child labour in South Africa. The DOJCD supports the DL in its awareness-raising interventions and disseminate information on child labour and exploitation to regional offices as well as Child Justice Centres and Children's Courts.

(c) The DOJCD implements the Trafficking in Persons programme in partnership with the Justice, Crime Prevention and Security Cluster (JCPS) National Human Trafficking Task Teams and the NPA. The JCPS Cluster is currently updating its communication strategy to include issues relating to the vulnerability of children, including CUBAC. In 2010 and 2011, the JCPS and the NPA conducted a "Red Card" campaign at border points to raise awareness on trafficking of children. In 2011, door-to-door campaigns were held at places of residence where the victims are living. During 2011, the NPA also distributed the Trafficking in Persons publication at airports.

(d) The FPB has run numerous campaigns at schools and in communities to create awareness and educate children, parents, caregivers and others on the board's role as well as the rights of children to protection against sexual exploitation and pornography. The campaigns also focus on cyber-safety, responsible use of the internet, and child pornography. Awareness campaigns are conducted in all nine provinces. The FPB also utilises electronic and print media, and visits shopping centres to disseminate information in this regard. In 2007/2008, 45 schools were visited and 960 learners reached, while 361,500 people were reached through mall exhibitions. The FPB made 3.08 million media impressions, with overall coverage of 52% of the population. In 2009/2010, 116,040 people were reached through exhibitions and 60,292 through anti-child pornography campaigns. Furthermore, the FPB conducted training for 510 school principals, 180 life-orientation teachers, 692 learners and 110 pastors. In 2010/2011 outreach campaigns were conducted in eight provinces, achieving direct interaction with more than 150,000 members of the public, including children in schools..

(e) The FPB engaged in a 2010 FIFA World Cup special project, the objective of which was to ensure that before, during and after the World Cup South Africans were empowered to protect children against sexual exploitation.

(f) The NPA (SOCA Unit) coordinated a Human Trafficking Awareness Week nationally with governmental and non-governmental partners in October 2010. Interviews were held on several radio stations and the campaign was covered in newspapers. In 2011, Human Trafficking Awareness Week focused on "Human trafficking dialogues" at major airports, viz. ORTIA, Cape Town International Airport (CTIA), King Shaka International Airport (KSIA) and Port Elizabeth International Airport (PEIA). Events were coordinated

by NPA Communications, the DHA, the National and Gauteng DSD and the KwaZulu-Natal HPPB Task Team.

(g) Heightened awareness of trafficking in persons among the public and decision-makers resulted in invitations to the NPA to make presentations at various fora, such as the Cross-border Road Transport Agency (CRBTA) Taxi Operators Conference on "Partnering to prevent and combat human trafficking across our borders"; the IDASA-African Asian Society Human Trafficking Workshop; the Healthy Lifestyle Partnership Meeting coordinated by the KwaZulu-Natal DOH; the Official Development Assistance Meeting hosted by the Limpopo Office of the Premier; and the City of Johannesburg's Roundtable Discussion on Migration.

(h) The South African Broadcasting Corporation hosted peer educators from Youth Ending Commercial Sexual Exploitation of Children (YCESEC) discussing human trafficking on Yo TV Blue Couch.

73. Measures to protect especially vulnerable groups of children include the following:

(a) The DSD's Guidelines for the Prevention and Response to Child Exploitation provide direction on how to identify especially vulnerable children and render effective services to exploited children.

(b) A number of multi-sectoral strategies are in place for the general care and protection of especially vulnerable groups of children. These include children living and working on the streets, child-headed households, children affected by HIV and AIDS, and children with disabilities. The strategies contain general measures to protect children against abuse, neglect and exploitation.

(c) In addition, as previously described, the Children's Act and Trafficking Bill provide special protection for the repatriation of a child victims at risk of further harm upon return to their country of origin.

74. Current prevention interventions are split between numerous departments and are not designed within a common framework to work together towards attainment of common objectives. The Trafficking Bill provides for the development, implementation and monitoring of a comprehensive multi-sectoral prevention strategy to eliminate trafficking.

4.3 Prevention programmes targeting specific groups

75. A number of programmes have been developed to raise awareness among service providers in high-risk sectors and zones to prevent the occurrence of the prohibited offences. These include the following (described in more detail in paras. 49 and 67 above):

(a) Training FCS Unit members on cybercrime to address the growing incidence of internet-based sexual offences and pornography;

(b) Training frontline officers at Ports of Entry and Border Patrols on child trafficking;

(c) Sharing information on high-risk children and measures to protect them with agencies operating at the ORTIA;

(d) Training labour inspectors on the identification of children at risk of commercial exploitation and the remedies and protection available for them; and,

(e) The signing of a code of conduct between Fair Trade Tourism SA and the DSD on conduct in the hotel industry, places of entertainment, tourism and related sectors.

4.4 The role of NGOs, media, the private sector and children

76. Through participation in the structures discussed previously, NGOs have been part of the planning and design of awareness-raising campaigns. Community-based organisations (CBOs), faith-based organisations (FBOs) and NGOs are active partners in government-led advocacy campaigns such as Child Protection Week, outreach campaigns such as the provincial and local child-protection committees, and programmes like the "Eye on the Child", Isibindi and Asibavikele models. NGOs such as RAPCAN, Molo Songololo and Childline emphasise children's participation in the planning and implementation of their awareness-raising campaigns.

77. Information is disseminated through a range of media. The media have played a crucial role through these campaigns in sensitising parents, caregivers and communities about their responsibility to protect children and advising them on how they can act against child abuse, exploitation and pornography.

4.5 Steps taken to measure and evaluate prevention programmes

78. There are currently no specific measures in place to evaluate the effectiveness of prevention programmes. Monitoring of prevention intervention is, however, integrated in the current data collection systems and monitoring activities of the various coordinating structures described on Parts 2.1 and 3.3.

4.6 Challenges in implementing the prevention components of the Protocol

79. Whilst significant progress has been made in the development of laws and programmes for the prevention of the sale or prostitution of children and child pornography, there are a number of challenges inhibiting the realisation of their full potential. Many of these, as well as the attention they are receiving, have been discussed in previous paragraphs. In summary, common challenges include the absence of an overarching prevention framework; insufficient intersectoral planning and collaboration; an insufficiently specialised workforce capacitated to deal with increasingly more complex cases; insufficient budgets for programme implementation and for growing the non-governmental sector at community level; and gaps in existing laws and intra-governmental data management systems.

Part 5: Prohibition and related matters

5.1 Laws criminalising sale of children, child prostitution and child pornography

80. Chapter 18 of the Children's Act creates the offence of trafficking in children. Section 284(1) provides that no person, whether natural or juristic, may traffic a child or allow a child to be trafficked, regardless of whether the child consented thereto, regardless of whether the child was illegally adopted, and regardless of whether the intended exploitation or trafficking occurred.

81. The Act defines child trafficking as the recruitment, sale, supply, transportation, transfer, harbouring or receipt of children within or across the borders of the Republic of South Africa for the purpose of exploitation. This includes by any means of threat, force or other forms of coercion, abduction, fraud, deception, abuse of power or the giving or

receiving of payments or benefits to achieve the consent of a person having control of a child or due to his or her position of vulnerability, for purposes of exploitation. Child trafficking includes the adoption of a child facilitated or secured through illegal means.

82. Exploitation includes (a) all forms of slavery or practices similar to slavery, including debt bondage and forced marriage, (b) sexual exploitation, (c) servitude, (d) forced labour or services, (e) child labour, and (f) the removal of body parts.

83. The Sexual Offences Act makes it an offence to traffic people (including children) for sexual purposes. This includes the supply, recruitment, procurement, capture, removal, transportation, transfer, harbouring, sale, disposal or receiving of a person, within or across the borders of the Republic of South Africa, by means of a threat of harm, the threat or use of force, intimidation or other forms of coercion, abduction, fraud, deception or false pretences, the abuse of power or of a position of vulnerability, or the giving or receiving of payments, compensation, rewards benefits or any other advantage for the purpose of any form or manner of exploitation.

84. The Prevention of Organised Crime Act, 1998, makes it an offence to be involved in racketeering or organised crime activities in relation to, inter alia, kidnapping and sexual offences prohibited in terms of the Sexual Offences Act. Chapter 5 of the former Act makes provision for the forfeiture of assets from a person convicted of an offence, while Chapter 6 provides for the civil forfeiture of assets that are proceeds of crime or which have been involved in the commission of a crime. Forfeited money may be paid to the victim of the crime when he or she is identified.

5.2 Laws criminalising the illegal adoption of children

85. Chapters 15 and 16 of the Children's Act provide strict measures that regulate adoption and intercountry adoption. Section 242 prohibits the making of improper gains from adoption in South Africa. An adoption "facilitated or secured through illegal means" constitutes child trafficking and is punishable by the law.

5.3 Laws criminalising exploitation of child labour and CUBAC

86. The Child Justice Act includes an offence of CUBAC, and guidelines have been developed on how to identify and deal with complaints of children suspected of being used by adults to commit crimes. Adults are sentenced in terms of the Criminal Procedure Act No. 51 of 1977.

87. The Child Justice Act furthermore provides that when an adult is convicted of any offence in which a child was used to commit a crime, this factor must be taken into consideration as an aggravating circumstance for purposes of sentencing.

88. The Basic Conditions of Employment Act makes it a criminal offence to employ a child under the minimum age of 15 years. The offence is subject to a sentence of three years' imprisonment.

5.4 Laws criminalising sexual exploitation of children

89. The Sexual Offences Act criminalises all acts of child prostitution (widely defined) committed by adults, and seeks to provide child victims with the necessary care and protection.

90. The Act specifically criminalises all acts of child prostitution committed by adults. However, children involved in prostitution may be diverted from prosecution and, even if found guilty of being prostitutes or engaging in prostitution, the courts will sentence them to restorative justice and non-custodial sentences in order to assist them in becoming productive members of society.

91. The Act criminalises a wide range of conduct under the offence of sexual exploitation, which is defined as unlawful and intentional engagement of the services of a child (defined as anyone under the age of 18 years), with or without his or her consent, for financial or other reward, favour or compensation to either the child or a third person for the purpose of engaging in a sexual act with the child (irrespective of whether the act is committed or not) or by committing a sexual act with the child.

92. In addition to sexual exploitation by a perpetrator, the Act criminalises involvement in the sexual exploitation of a child. Any third person who offers the services of a child, with or without their consent, for reward is guilty of the offence of being involved in the sexual exploitation of a child. Prohibited conduct includes promoting, encouraging or facilitating the commission of a sexual act with the child by a third person; making available, offering or engaging the child for purposes of the commission of a sexual act with the child by a third person; or detaining the child, whether under threat, force, coercion, deception, abuse of power or authority, for the purposes of the commission of a sexual act with the child.

93. Section 17(3) criminalises the act of furthering the sexual exploitation of a child. A primary caregiver of a child who knowingly permits a third party to commit a sexual act with that child is guilty of an offence; so is a person who owns, controls or otherwise possesses fixed property and allows the commission of a sexual act with a child by a third party on the property.

94. The Act criminalises benefiting from a child's sexual exploitation as well as living wholly or in part on rewards gained from a third person's sexual acts with a child. Section 17(6) criminalises the promotion of child-sex tours by either a natural or juristic person.

95. In addition to prohibiting the trafficking of children for purposes of sexual exploitation, the Children's Act prohibits the use, procurement or employment of children for the purposes of commercial sexual exploitation.

96. Section 57 (1) and (2) of the Sexual Offences Act states that children (male or female) under the age of 12 and persons who are mentally disabled are incapable of consenting to a sexual act. A sexual act relates to any act of sexual penetration or violation (as defined in section 1 of the Act).

5.5 Laws prohibiting and penalising child pornography

97. The Films and Publications Act prohibits and criminally sanctions all forms of child pornography, which is widely defined; section 30 provides for the sentencing options for offences committed.

98. The Act provides that it is a criminal offence to be in possession of; create or produce, or in any way contribute to, or assist in the creation or production of; import, or in any way take steps to procure, obtain or access; or knowingly export, broadcast or in any way distribute or cause to be exported, distributed, or broadcasted any film or publication which contains child pornography or which advocates, advertises or promotes child pornography or children's sexual exploitation.

99. Distribution is defined widely to mean "sell, hire out or offer or keep for sale or hire and, includes to hand or exhibit a film or a publication to a person under the age of 18

years, and also the failure to take reasonable steps to prevent access thereto by such a person".

100. In addition, the Act criminalises having knowledge of the commission of one of the preceding offences, or having reason to believe one of them is being committed but failing to report this knowledge or suspicion to the police. It also criminalises failure by any person to prevent access to defined materials by a person under the age of 18 years.

101. Section 10 of the Sexual Offences Act criminalises exposure to, or display of, child pornography to adults; section 19 criminalises the exposure to, or display of, pornography or child pornography to children, irrespective of the method of display or distribution. The Act creates a further two offences to protect children from being used in pornography. The first offence is the unlawful and intentional use of a child in the making of pornography; the second is benefiting from child pornography.

5.6 Minimum penalties

102. The Criminal Law (Sentencing) Amendment Act No. 38 of 2007 (hereinafter referred to as the Minimum Sentencing Act) provides for mandatory life imprisonment in respect of certain offences. These include murder when the death of the victim was caused by the accused in committing or attempting to commit rape (section 3) or compelled rape (section 4); rape and compelled rape when committed under specific circumstances as listed in Part I; and trafficking in persons for sexual purposes (section 71(1) and 71(2)).

103. In addition, the Act provides further minimum sentences of a period not less than ten years in the case of a first offence, of not less than 15 years in the case of a second offence, and 20 years for third and subsequent offences of (1) rape and compelled rape, other than those referred to in Part I; (2) trafficking in persons for sexual purposes (section 71(6)); and the sexual exploitation of a child (section 17) or mentally disabled person (section 23).

104. The Minimum Sentencing Act provides that a court may impose a lesser sentence than that prescribed where substantial and compelling circumstances justify it. The Act precludes certain factors as justifications for the imposition of a lesser sentence: (a) the complainant's previous sexual history; (b) an apparent lack of physical injury to the complainant; (c) an accused person's cultural or religious beliefs about rape; or (d) any relationship between the accused and complainant prior to commission of the offence.

105. Chapters 5 and 6 of the Sexual Offences Act have penalty clauses for the offences contained in these chapters. Under Chapters 2, 3 and 4, some of these offences have penalty clauses in line with the Minimum Sentencing Act, whilst other offences that do not have specific penalty clauses rely on section 276 of the Criminal Procedure Act for appropriate sentencing options. The Supreme Court of Appeal decision in *Director of Public Prosecutions (DPP) v. Prins (369/12 [2012] 106 SCA0* confirmed this position.

5.7 Statute of limitations on offences

106. There is no statute of limitations on the prosecution of any sexual offences.

5.8 Other offences recognised by the State

107. In addition to the preceding laws, municipal by-laws are increasingly being used by the police and prosecution authorities to ensure that premises used for sexual exploitation and human trafficking, especially of children and young girls, are penalised and closed down.

5.9 Criminal liability of legal persons

108. The Children's Act makes trafficking in children by both a natural and juristic person an offence.

109. The Sexual Offences Act criminalises prohibited conduct by a natural or juristic citizen or ordinary resident of South Africa.

5.10 Measures to ensure lawful adoptions

110. South Africa acceded to the Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoptions in 2003. The country has also strengthened its legislative framework for both domestic and intercountry adoptions, in Chapters 15 and 16, respectively, of the Children's Act. The Act and its Regulations provide procedures to be followed at all stages of the adoption process, require accreditation of those involved in adoptions, and establish a register on Adoptable Children and Prospective Adoptive Parents for matching and placement purposes.

111. In addition, the DSD developed an adoption policy framework and strategy aimed at promoting adoption services in the context of a considerable number of orphans and vulnerable children. In line with the Hague Convention in respect of intercountry adoptions, the strategy gives priority to domestic rather than international placement of children.

112. While legal adoption figures are low, informal care arrangements are common, and an estimated 1 in 4 children in South Africa resides with someone other than a biological parent. Some of these children are adopted through customary practices, but the number of such adoptions is unknown. Customary adoptions entail in effect the transfer of customary parental rights and responsibilities in respect of a child from one family (or family member) to another. Unlike placements recognised and governed by the Children's Act, customary adoptions are not subject to judicial or legislative regulation, and there is no official monitoring of the child's well-being.

113. In international adoptions, the South African International Social Services (ISS) unit works with other International Social Service offices to facilitate casework between countries.

5.11 Preventing commercialised adoptions, ensuring protection from intermediaries

114. The Children's Act provides for protection of birth mothers against economic and other pressures to give up their children for adoption by providing that birth mothers and pregnant women should be counselled and provided with additional services and support to keep their children within the family or extended family.

115. The Act also prohibits any publication or advertisement regarding adoption and placement of a child, except where a Children's Court requires it so that family members can apply for adoption of a child before the Court makes a final adoption order placing the child with non-family members.

116. The Act further requires the licensing and registration of agencies and individuals acting as adoption intermediaries. The DSD has developed accreditation criteria to which service providers must adhere in order to ensure legal and ethical adoption practices.

5.12 Measures to prevent theft of young children and fraudulent birth registration

117. To combat the illicit transfer and non-return of children abroad, South Africa acceded to the Hague Convention on the Civil Aspects of International Child Abduction [October 1980] in 1996 and subsequently incorporated it into law through the Children's Act. The Central Authority for the Convention is the Chief Family Advocate, assisted by the Family Advocates' offices nationally. Abduction and/or wrongful retention of children, as well as prevention of parental contact with a child who is being retained from a contracting state, is dealt with either through non-litigious mediation or through litigation in the High Court.

118. The DOH has developed and implemented security measures in maternity wards to prevent access to, and theft of, newborn infants. The DHA has a secure regulatory framework governing the registration of births which, inter alia, prohibits the registration of children's births by anyone other than the child's parents. Registration is permitted by an accredited social worker where a child has been orphaned or abandoned, subject to compliance with additional procedures and a social worker report.

5.13 Circumstances in which consent of a parent for adoption can be waived

119. The general rule in terms of the Children's Act is that both parents must consent to adoptions. However, such consent is not necessary where the parent is incompetent to consent due to mental illness; has abandoned the child or the whereabouts of the parent are unknown; has abused or deliberately neglected the child; has consistently failed to fulfil his or her parental responsibilities; has been divested of the right to consent by a court; and/or had failed to respond to a notice of adoption within 30 days of delivery.

5.14 Measures to limit the fees charged in connection with adoption

120. The Children's Act prescribes fees payable for professional services by accredited adoption service providers in respect of both national and intercountry adoption. The service providers must submit annual audited financial statements to the DSD. In any case of non-compliance with the prescribed fees, the DSD must investigate and may suspend or terminate the service provider's accreditation.

5.15 Laws prohibiting advertisement of the prohibited offences

121. The Sexual Offences Act criminalises not only sexual exploitation but the act of offering the services of a child, regardless of whether or not it is done with the child's consent.

122. The Films and Publications Act provides that it is a criminal offence to be in possession of, create or produce, import or export any film or publication which advocates, advertises or promotes child pornography or the sexual exploitation of children.

5.16 Jurisdiction over offences referred to in article 3 of the Protocol

123. Both the Sexual Offences Act and the trafficking provisions of the Children's Act provide that courts in South Africa have the jurisdiction to hear cases where the crimes were committed in South African jurisdiction or involve South African residents.

5.17 Extraterritorial jurisdiction

124. Section 291 of the Children's Act extends the State's jurisdiction to prosecute cases of child trafficking committed by South African national natural or juristic persons outside the borders of the Republic of South Africa.

125. Section 71(6) of the Sexual Offences Act extends prosecutorial jurisdiction against a commercial carrier that brings or takes in or out of South Africa a person who does not have the necessary legal entry or exit documentation.

126. In addition, section 61 of the Sexual Offences Act provides for the extended jurisdiction of the State in respect of any crime committed by a natural or juristic citizen or ordinary resident of South Africa outside the country's borders, including where such offence is committed in South Africa's territorial waters or aboard a ship or aircraft registered, or required to be registered, within the Republic of South Africa.

Part 6: Protection of the rights of victims

6.1 Measures to implement article 8 of the Protocol

127. The Constitution and the Children's Act stipulate that the best interests of the child are paramount in every matter concerning the child; as such, the stipulation applies to all steps taken and decisions made in the furtherance of measures for the prevention of the sale of children, child prostitution and child pornography and in the provision of services and support to child victims thereof.

128. The Children's Act and other legislation make provision for comprehensive protection of children against crimes envisaged in article 8. In particular, Chapter 18 of the Act expressly domesticates section 282 of the Protocol within South African law.

129. The DSD works in collaboration with the SAPS, DOJCD, NPA and Department of International Relations and Cooperation (DIRCO) in protecting child victims in matters involving the sale of children, child prostitution and child pornography.

130. The Service Charter for Victims of Crime (2004) (hereinafter, the Victims Charter) accords to all victims of crime the right to: be treated with fairness and respect for dignity and privacy; offer and receive information; receive protection and assistance; and, where applicable, compensation and/or restitution. Intersectoral implementation of the Victim's Charter is led by the DOJCD.

6.2 Investigation where the victim's age is unknown

131. Under the Children's Act, the Children's Court may for the purposes of the Act estimate the age of a person who appears to be a child. The Court may either request from another person, body or institution any documentation, evidence or statements relevant to the purpose or refer the person to a medical practitioner for an estimation. The estimated age will be the regarded as the age of the child.

132. Furthermore, the Criminal Procedures Act allows the presiding officer to estimate a person's age, where necessary, by his or her appearance or from any information which may be available. The estimated age is then deemed to be the person's correct age.

6.3 The best interests and protection of victims in the criminal justice system

133. The Children's Act, Child Justice Act and section 28(2) of the Constitution compel all State actors, including courts, to ensure that all their decisions and actions take into account and prioritise the best interests of the child. The Children's Act gives detailed guidance on the relevant factors to consider.

134. The Constitution and Section 10 of the Children's Act provide for children's participation in matters affecting them. The Children's Act states: "Every child that is of such an age, maturity and stage of development as to be able to participate in any matter concerning that child has the right to participate in an appropriate way and views expressed by the child must be given due consideration." This principle is applied throughout the Act as well as in other legislation related to child victims of sale, child prostitution or child pornography. The principle translates into the rights of the child to be heard in court proceedings and to legal representation in proceedings that affect him or her.

135. The Constitution makes legal representation mandatory for all children in criminal cases and in civil cases where substantial injustice would otherwise result. Furthermore, section 55 of the Children's Act advises that where a child in a matter before the Children's Court is not represented by a legal representative, and the court is of the opinion that it would be in his or her best interests to have legal representation, the court must refer the matter to the Legal Aid Board referred to in section 2 of the Legal Aid Act No. 22 of 1969.

136. In terms of the Children's Act, children must be informed of their rights and participate in court processes that impact on their rights. Presiding officers in courts inform children of their rights, as do social workers and the police. In addition, Legal Aid SA deals with the legal representation of indigent children, and in this regard it assisted 27,960 children in 2011/12; specialist legal aid practitioners are also being appointed to assist children in a more dedicated manner.

137. In addition to criminal investigations, a designated social worker is appointed to investigate all cases of sale, trafficking and/or exploitation, as all such victims are regarded by the Children's Act as being in need of care and protection. The designated social worker ensures that the Act's principles are adhered to and that the child is prepared for the criminal court proceedings as well as assisted in obtaining legal representation. The Guideline for the Prevention of and Response to Child Exploitation outlines steps a social worker is required to take in assisting the child throughout the legal process.

138. The Constitution, Children's Act, Child Justice Act, Criminal Procedure Act, Domestic Violence Act (1998) and the Service Charter for Victims of Crime and the Minimum Standards for Victims of Crime, 2004 confirm the obligation to hear child views in court proceedings and promote their participation and protection as witnesses in criminal proceedings. They prescribe the adoption of child-friendly court processes and procedures for the protection of child-victims from secondary abuse.

139. The Service Charter for Victims of Crime and the Minimum Standards for Victims of Crime, 2004 consolidates the legal framework governing the rights and services for crime victims, and aims to ensure that the criminal justice system is victim-centred and does not cause secondary victimisation. It sets minimum standards of service to secure victims' rights to fair treatment, to dignity and privacy, to receive and offer information, to protection, and to assistance.

140. The Children's Act requires that courts apply appropriate questioning techniques for children in general and, in particular, for children with disabilities, traumatised children and very young children.

141. The policy directives found in the National Instruction 3/2008 on Sexual Offences; National Instruction 2/2010 on Children in conflict with the law (children used by adults); and National Instruction 3/2010 on children in need of care and protection have been put in place to ensure the safety of child victims affected by sale, prostitution or pornography and who may be at risk of retaliation or intimidation. The NPA has also developed directives on the management of sexual offences and distributed these directives to prosecutors.

142. In addition, the Criminal Procedure Act (1977), the Children's Act and the Trafficking Bill allow a child witness to give evidence through an intermediary and/or closed circuit television and for matters involving children to be heard in camera. Furthermore, there may be no publication of the identity of children in criminal proceedings. Since the enactment of the Sexual Offences Act, the DOJCD has fast-tracked the appointment of intermediaries to respond to the special needs of child victims. In *Director of Public Prosecutions v. Minister of Justice and Constitutional Development and Others ([2009] ZACC 8*, the Constitutional Court expanded the requirement for intermediary services to all the children, including mentally disabled persons with a mental age under 18. In the case *of DPP v. Minister of Justice ([2009] (2) SACR 130 (CC)*, the Constitutional Court ruled that the presiding officer must consider and decide, before the child witness testifies, whether the use of an intermediary is necessary to prevent unnecessary duress. The ruling emphasises that this decision must be based on the best interests of the child.

143. There are a number of challenges in implementing provisions related to intermediaries and closed-circuit testimony. These include lack of facilities and resources, especially in courts in remote areas, lack of training, and lack of clarity on the precise role of intermediaries dealing with the child. The DOJCD established a task team to address the problem. The team developed a report and recommendations which have informed the implementation of, inter alia, the DOJCD's progressive procurement policy for specialised services in sexual offences. As a result of the policy, by March 2012 the DOJCD had procured 335 CCTVs, 49 one-way mirrors, 225 child-witness testifying areas and 131 intermediaries. These numbers do not yet ensure coverage of all 330 regional magistrate's courts.

144. Further witness protection is provided through the witness protection programme (within the NPA) governed by the Witness Protection Act, 1998 No. 112 of 1998. The programme provides for the establishment of an Office for the Protection of Witnesses that affords temporary protection pending placement under protection of relevant witnesses and related persons. Children who need witness protection are also dealt with in terms of the provisions of this Act.

145. The Domestic Violence Act also protects child-victims against harassment and stalking by a person who is in a domestic relationship with the child. The Protection from Harassment Bill (2010) will extend protection to cases of harassment where there is no domestic relationship between the victim and perpetrator; the Bill includes protective provisions to children who can be complainants, persons related to a complainant, or child witnesses.

146. Over and above these measures, the DOJCD established dedicated Sexual Offences Courts as early as 1993 under the stewardship of the Unit for Sexual Offences and Community Affairs. The underlying principles of the courts are victim-friendly structures, approaches, and prosecution-driven investigations. Resource and regulatory constraints saw a moratorium on the full roll-out of these courts in 2004, but the DOJCD has announced that they will be reintroduced and aims to have 58 courts in place by September 2013. The reintroduction of the courts has been in response to the low levels of prosecution and high levels of secondary victimisation that victims of sexual offences, including child victims, experience in South Africa. However, budgetary and specialised human resource

constraints present an ongoing challenge to full implementation of the plan. A further challenge is the lack of a clear legal regulatory framework for the courts.

147. A range of NGOs promote and protect children's rights and best interests in criminal matters and matters regarding the determination of the child as one in need of care and protection and his or her placement in alternative care (the latter process is discussed under the next heading). For example, the Centre for Child Law at the University of Pretoria advances the best interests of the child through impact litigation, education, and research and community services. The Centre is officially recognised as a law clinic by the Law Society of South Africa. In 2003 the Children's Litigation Project was established to focus on litigation relating to children's rights.

148. The rights in question are afforded to national and non-national children alike.

6.4 Protective custody of child victims during criminal investigations

149. The Children's Act and its Regulations provide for the placement of child victims in protective custody. As a matter of law, child victims are not kept in police cells or correctional facilities. The victims of sale, child prostitution or child pornography are dealt with as children in need of care and protection in terms of section 150 of the Act.

150. The Act requires all victims to be referred to a social worker for an inquiry into whether the child is in need of care and protection. If found to be in need of care and protection by the Children's Court, the child may be placed in one of a number of alternative care options, including a child and youth care centre, foster care or adoption. While in alternative residential care, children have access to therapeutic and developmental services by social workers, child and youth care workers, and other relevant professionals.

151. Generally, pending the investigation, a child may only be removed and placed in temporary safe or alternative care by the Children's Court. However, if there is an immediate risk of harm, subject to certain procedural requirements the social worker or a police official may remove the child without a court order. In the latter case, the Children's Court must confirm the legality of the removal.

152. The Act requires that all decisions about temporary removal and placement in alternative care must be founded on the best interests of the child. In addition, the Act prescribes that the child's views be taken into account by the Children's Court in deciding on his or her placement.

153. In 2012, 22,000 children were resident in child and youth care centres. However, the data are not disaggregated according to the reason for the placement; it is thus not possible to indicate how many of these children were victims of sale, trafficking or exploitation.

154. After investigation, and if the child is a foreign child, he or she is brought before the Children's Court and can apply for asylum in terms of the Refugees Act. Under section 156 of the Children's Act, an illegal foreign child who is a victim of trafficking and in need of care and protection is allowed to remain in the Republic for the duration of the Children's Court order.

6.5 Specialist training of those working with child victims

155. The Children's Act and regulations require that all social service providers rendering therapeutic services to children in need of care and protection have appropriate qualifications and that they be accredited with the relevant professional bodies.

156. The Sexual Assault Policy and Management Guidelines, 2005, developed by the DOH, aim to provide comprehensive care for victims of sexual assault. They make provision for training structure, guidelines and standards to operationalise intersectoral services.

157. In addition, training has been given to various service providers across the departmental spectrum and covers the legal, psychosocial, best interests and other rights of victims as described in in para. 49 above.

158. The DSD developed a rehabilitation programme for accredited organisations rendering services to victims of trafficking. The programme manual aims to guide them in managing trauma by providing intervention strategies for assessment, engagement and psychosocial support in the healing process.

6.6 Safeguards for the accused to have a fair trial

159. The Constitution entrenches the right of an accused person to a fair trial.

160. The laws governing the right to legal representation and legal aid for the indigent accused, as we'l as the laws of evidence and the burden of proof to secure a conviction governed by the Criminal Procedure Act, provide extensive protection for the accused's rights. Rights of the accused that are protected include the presumption of innocence until the contrary is proven beyond a reasonable doubt, the right to be heard and to remain silent if the accused chooses not to testify, the right to legal representation in all cases, and the right to legal aid in the case of indigence.

161. A number of principles governing the testimony provided by children, single witnesses and in sexual abuse cases, offer additional protection for the accused against potentially unreliable charges or evidence. One such principle is that there should be no unreasonable delay between the incident and the laying of the complaint in sexual abuse cases. Furthermore, it is established judicial practice for trial courts to apply cautionary rules to the testimony of young children and single witnesses, as well as to adopt a cautionary approach to complaints in sexual cases *(Ali v. S (2011) ZAFSHC)*.

6.7 Reintegration, reunification, physical and psychological services for victims

162. Numerous policies, laws and programmes provide for social reintegration, family reunification, and physical and psychological recovery services for child victims. (See Part 3.1, Table 2 for a detailed list.)

163. The Children's Act stipulates that the reunification and reintegration of the child with his or her biological parent/s and/or family is a priority intervention that should be considered within the context of the best interests of the child.

164. Where a child is placed in alternative care, the Act makes provision for the delivery of therapeutic services for the physical and psychological recovery of the child.

165. However, the Act requires that a child be placed in alternative care for as short a period as possible and that, with the assistance of a designated social worker, effort is made for the reunification of the child with the parent or caregiver.

166. National norms and standards for child protection require that family reunification and reintegration services provide for family development, family skills training, family group conferencing, and mentorship.

167. The Children's Act's provisions are binding outside the Republic and therefore apply to international reunification. In collaboration with the UNHCR and Red Cross, the DOHA plays a role in the family reunification of asylum-seekers and refugees.

168. Chapter 18 of the Children's Act gives effect to the UN Protocol to Prevent Trafficking in Persons. It focuses on the repatriation of child victims, mutual assistance in establishing their identity or relocating their families, and evaluating the appropriateness of the return of the child to his or her family or community.

169. Section 290 of the Children's Act provides that an illegal foreign child victim may not be returned to the country of origin without giving due consideration to the availability of care arrangements in that country, the safety of the child in that country, and the possibility that the child may be harmed, killed or trafficked again. If it is in the best interests of the child, the child must be accompanied by an adult on his or her return to the country of origin. In the best interests of the child, the Act requires that, at State expense, an adult escort the child from the place where the child was found to the place from whence he or she was trafficked (the country of origin).

170. The ISS guidelines assist in mutual assistance or relocation of the child. The ISS establishes contact with ISS offices in the country of origin to establish the whereabouts of the parents/caregivers, their circumstance, and whether it is acceptable for the child to be reintegrated and reunified with the parents/caregivers. Based on the report from the ISS office of country of origin, the social worker will make a determination whether the child would be returned to the country of origin or be placed in alternative care in South Africa by a Children's Court order.

171. Civil society plays a key role in the provision of the full range of reintegration, reunification and recovery services for victims. These are provided by State institutions and social workers.

172. In 2012, 477 refugee and asylum-seeking children were reunited with their families and 167,000 families and 85,000 children received some form of therapeutic and/or prevention and early intervention support and services. However, the data are not disaggregated to allow for the identification of how many of these families and children were victims of trafficking, sale or exploitation.

173. A key issue impacting on the delivery of services to support family, alternative care and therapeutic services is the shortage of qualified social service practitioners. Efforts are in place to address this concern. "Social work" is now recognised as a scarce skill in South Africa, further to which R256-million has been allocated in 2012/2013 to expand the Social Work Scholarship Programme; the DSD also plans to engage veteran social workers to mentor newly qualified ones. In addition to strengthening capacity, the Children's Act makes provision for some child-protection services to be performed by "social service professionals" other than social workers, thus widening the pool of service providers.

174. In addition, to address the funding constraints faced by NGOs in the provision of statutory services, a new Policy on Financial Awards to Service Providers (2011) has been adopted.

6.8 Measures to recover the child's identity

175. When a child's identity has been adversely affected, a designated social worker and the DHA work together to ensure that the child applies for, and receives, the necessary documentation. If children do not have identity documents and do not have proper details of parents and families, or if families/parents and caregivers cannot be traced due to incorrect details provided by children, the DSD's ISS Unit also assists. An interdepartmental

response to the issue of unaccompanied foreign minors is also under way, under the lead of the DOJCD together with the DSD and DHA, in order to develop, implement, monitor and report upon the numbers of such children in the country.

176. If the child's birth is not registered or the child is a foreign child or an unaccompanied minor, the social worker should accompany the child to the district surgeon or state hospital to have the child medically examined. An age-estimation form must be completed. The social worker will take the form to the presiding officer (a magistrate in a Children's Court) for the validation of the age-estimation certificate.

177. The social worker will accompany the child to the DHA and assist him or her in applying for the birth certificate. The DHA will register the child's birth based on the validated age-estimation certificate.

178. If the child has parents/caregivers and the child's birth is not registered, the social worker will accompany and assist the child and the family to register the child's birth.

179. If a non-South African child who has been exploited needs to register as an asylum-seeker/refugee, the DHA is responsible for processing applications and granting asylum to persons who qualify for refugee status.

180. A non-South African child is to be assisted with his or her application for asylum in South Africa if the parents are not traceable or if the child's circumstances are such that it is unsuitable for him or her to be returned to the country of origin.

181. The role of the designated social worker is to: assist the child in accessing the relevant forms from the DHA; prepare the child for the visit to the Home Affairs' office; transport and accompany the child to the office to apply for asylum; assist the child in completing the application form; assist with acquiring an interpreter if necessary; and provide financial and psychosocial support during this process.

6.9 Compensation for damages

182. The Victims' Charter affords every victim of crime with the right to compensation, including the child victims of sale, prostitution or pornography. Section 300 of the Criminal Procedure Act entitles all victims of crime to apply against the accused for compensation of loss of property or money suffered as a result of a crime for which the accused is convicted. The Trafficking Bill also provides for compensation for victims of trafficking. In addition, a victim can seek restitution by utilising civil litigation. Furthermore, a civil court can be requested to award a civil claim of damages against persons who have not been convicted of a crime, where loss of health or earnings can be proved by the victim/s.

183. The Prevention of Organised Crime Act makes provision for the forfeiture of assets from a person convicted of an offence. Forfeited money is paid to the victim of the crime where he or she is identified.

184. The Guardian's Fund is a statutory trust established by the State to receive, invest and administer funds paid out pursuant to a court order on behalf of children who lack legal guardians to administer their funds for them. Where a legal guardian is available, the administration of the child's property is regulated by law.

Part 7: International assistance and co-operation

7.1 Multilateral, regional and bilateral arrangements

185. South Africa enacted the International Cooperation in Criminal Matters Act No. 75 of 1996) (ICCMA) which provides for assistance in all criminal matters, including offences specified in the Protocol. In terms of the ICCMA, assistance may be provided in the absence of an agreement or arrangement. The purpose of the ICCMA is to facilitate the provision of evidence and execution of sentences in criminal cases, as well as the confiscation and transfer of the proceeds of crime. Sections 8-11 provide for the examination of witnesses and the production of documents; Chapter 3 provides for the mutual execution of sentences and compensatory orders; and Chapter 4 provides for the confiscation and transfer of proceeds of crime.

186. South Africa enacted the Extradition Act No. 67 of 1962 which provides for the extradition of fugitives. South Africa may extradite fugitives accused or convicted of an "extraditable offence" with or without an extradition agreement. Under section 1 of the Act, "extraditable offences" are those punishable by a deprivation of liberty of six months or more. Offences referred to in the Protocol would all qualify as extraditable offences.

187. Since 1993 when South Africa ratified the Protocol, it has variously ratified, signed and negotiated several bilateral and multilateral mutual legal assistance agreements, including:

(a) Ratified: Lesotho, Egypt, Algeria, Nigeria, China, India, Hong Kong, Iran, Argentina, the SADC Protocol on Extradition, and the Council of Europe's Convention on Extradition;

(b) Signed: Mexico;

(c) Negotiated: Zambia, Argentina, Hungary, Namibia, United Arab Emirates, Belarus and Vietnam.

188. Prior to ratification of the Protocol, South Africa concluded extradition agreements with the following countries: Israel, Botswana, Malawi, Swaziland, Canada, the U.S.A. and Australia. South Africa is continually arranging negotiations for mutual legal assistance agreements.

189. In terms of a bilateral agreement between South Africa and Zimbabwe, arrangement is made for the family reunification and/or repatriation of unaccompanied minors found in either country to the countries of origin. The agreement provides for the police in either country to work with the UNHCR and NGOs in the field to trace families and reunite children with their families.

190. South Africa ratified the Transnational Organised Crime Convention. The Convention provides the basis for combating transnational trafficking in persons, including children.

191. While South Africa has not signed agreements with any country specifically to do with human trafficking, bilateral agreements concluded with several other states provide the basis for any co-operation required in this regard.

192. South Africa is a member of INTERPOL and the Southern African Regional Police Cooperative Committee (SARPCCO). Both of these organisations prioritise human trafficking, further to which members exchange operational information, facilitate criminal investigations and conduct working committee meetings that address issues related to human trafficking. The International Criminal Matters Act, 1996, assists criminal

investigations by enabling South Africa to provide information to a foreign country or obtain evidence abroad.

193. The SAPS works closely with the IOM and other NGOs. Draft SAPS National Instructions and Standing Operating Procedures have been developed in accordance with the Trafficking Bill. Moreover, the SAPS has appointed 22 liaison officers who are strategically placed in various continents to facilitate cooperation in any major investigation, including cases of human trafficking.

194. A Mutual Legal Assistance and Extradition Unit was established in the DOJCD to coordinate and prioritise requests for mutual legal assistance and extradition of fugitives.

195. To date, South Africa has not experienced any significant difficulties with the execution of requests for mutual legal assistance and extradition relating to offences specified in the Protocol.

7.2 Steps to support international co-operation

196. The DSD has established a dedicated International Social Services (ISS) Unit to:

(a) Arrange for services that will investigate and assist the situation of a child suspected of being subjected to neglect, sexual abuse, assault, physical abuse, and/or psychological abuse;

(b) Obtain official documents;

(c) Serve as a third-party negotiator in family mediation by helping the concerned parties to work out, restore or to establish a relationship;

(d) Locate the family and immediate family members if they are known, perform a social inquiry of the family (including an assessment of individual family members in both the country of origin and emigration country), and obtain an evaluation of the circumstances of an unaccompanied minor and the situation of his or her family;

(e) Evaluate a proposed repatriation plan to the home country for exploited and abandoned children, child victims of abuse or neglect, or deportees;

(f) Prepare a child for return to the home country or, where necessary, alternative placement;

(g) Assist in the family-reunification process;

(h) Facilitate direct and ongoing contact between a child and parent (s) or relative(s);

(i) Assist children with applications for refugee status with information, counselling, support or referrals in relation to settlement needs (for example, with employment, health, social benefits and services, residency, education, language and scholarships); and

(j) Provide clarification of, and assistance with, immigration.

197. The DSD participates in international conferences and training programmes through the International Relations Directorate.

7.3 International co-operation aimed at addressing root causes of vulnerability

198. South Africa is a signatory to numerous regional and international developmental agreements such as the United Nation's Millennium Development Declaration and the Southern African Development Community's Regional Indicative Development Strategic Plan. In terms of its commitments, it reports on progress in the elimination of poverty and inequality, these being key drivers of children's vulnerability to trafficking, sale and exploitation.

Part 8: Other legal provisions

8.1 Domestic legislation more conducive to realisation of the Protocol

199. The legislation referred to in this report has been enacted in fulfilment of the State's international and national obligations in terms of the Protocol. It is thus not more conducive to the rights protected therein but instead gives effect to them.

8.2 Ratification and consideration of international instruments in the application of the Protocol

200. The development of the framework, policies, laws, bills, programmes and institutional arrangements described in this report has been informed by the State's obligations in terms of the Protocol, as well as its obligations in terms of the CRC (ratified in 1995) and the Protocol to Prevent, Suppress and Punish Trafficking in Persons (Palermo Protocol) (ratified in 2004).

201. Further instruments that have shaped the current framework include: the African Charter on the Rights and Welfare of the Child (ACRW) (ratified in 2000); the International Labour Organisation's Convention on the Elimination of the Worst Forms of Child Labour (ratified in 2000); and Roadmap towards the Elimination of the Worst Forms of Child Labour (signed in 2010).

Annexures

Select list of legislation referenced in this report

- Basic Conditions of Employment Act No. 75 of 199
- Child Justice Act No. 75 of 2008
- Children's Act No. 38 of 2005
- Criminal Law (Sentencing) Amendment Act No. 38 of 2007
- Criminal Law Amendment (Sexual Offences and Related Matters) Act No. 32 of 2007
- Criminal Procedure Act No. 51 of 1977
- Extradition Act No. 67 of 1962
- Films and Publications Act No. 65 of 1996, as amended by Act No. 18 of 2004
- Immigrations Act No. 13 of 2002
- International Cooperation in Criminal Matters Act No. 75 of 1996
- Legal Aid Act No. 22 of 1969
- Prevention and Combating of Trafficking in Persons Bill, 2009
- Prevention of Organised Crime Act No. 121 of 1998
- Refugees Act No. 130 of 1998
- Witness Protection Act No. 112 of 1998